

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Kyle M. Parks,

Plaintiff,

v.

Case No. 2:20-cv-672

Special Agent Ryan Scheiderer,

Defendant.

ORDER

This is a civil rights action brought under 42 U.S.C. §1983 by Kyle M. Parks, a federal inmate proceeding without the assistance of counsel, against Special Agent Ryan Scheiderer. Plaintiff alleges that Special Agent Scheiderer violated his constitutional rights while collecting evidence which was used to convict plaintiff of human trafficking crimes. Plaintiff filed a motion for summary judgment on September 29, 2020. See Doc. 22. On October 2, 2020, defendant filed a motion to dismiss. See Doc. 23.

On November 20, 2020, the magistrate judge issued a report and recommendation recommending that defendant's motion to dismiss be granted, concluding that plaintiff's claim is barred by the applicable statute of limitations and by Heck v. Humphrey, 512 U.S. 477 (1994). The magistrate judge also recommended that plaintiff's motion for summary judgment be denied as moot.

The report and recommendation advised the parties that objections to the report and recommendation were due within fourteen days, and that the failure to file objections to the report and recommendation "may forfeit rights on appeal." Doc. 35, p. 6. The time period for filing objections under Fed. R. Civ. P.

72(b) has expired, and no objections have been filed to the report and recommendation.

The court agrees with the recommendation of the magistrate judge, and hereby adopts the report and recommendation (Doc. 35). Plaintiff's claim concerns an alleged search and seizure on December 4, 2015, which occurred outside the two-year limitations period for §1983 actions in Ohio. See Banks v. city of Whitehall, 344 F.3d 550, 551 (6th Cir. 2003). If plaintiff were to prevail on his Fourth Amendment claim, this would necessarily imply the invalidity of his conviction; thus, his claim is also barred under Heck. Defendant's motion to dismiss (Doc. 23) is granted. Plaintiff's motion for summary judgment (Doc. 22) is denied as moot. This action is dismissed with prejudice. The court certifies that any appeal would be objectively frivolous and should not be permitted to proceed in forma pauperis.

Date: December 15, 2020

s/James L. Graham
James L. Graham
United States District Judge